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REMARKS

In the Office Action dated July 30, 2004, claims 1-11 and 13-19 are pending. Claims 1, 11, 16, and 19 are independent claims from which all other claims depend therefrom. Claims 1, 6-7, 9, 11, 13, 16-17, and 19 have been amended. Note that claims 1, 6-7, 9, 11, 13, 16-17, and 19 have been amended for clarification reasons and not for patentability reasons.

Claims 1-6, 7-11, and 16-19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kageyama et al. (USPN 6,246,932) in view of Sielagoski et al. (USPN 6,212,465). Claims 13-15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Sielagoski in view of Kageyama. The Office Action relies on Kageyama for all of the limitations of claims 1-11 and 13-19 except for the limitations of generating a yaw rate signal and preventing acceleration of the vehicle in response to the yaw rate signal.

In the Response of May 25, 2004, the Applicants provided arguments as to why Kageyama fails to teach or suggest the following limitations: A) detecting a future path; B) detecting a future path via a navigation system; C) generating a predicted future path profile; D) generating a predicted future path profile in response to a future path; E) inhibiting resume speed of a vehicle; F) inhibiting resume speed of a vehicle in response to a future path; G) inhibiting resume speed of a vehicle in response to a predicted future path profile; and H) inhibiting resume speed of a vehicle via an in-vehicle controller. The term "inhibiting resume speed" has been defined as "preventing the acceleration" of a vehicle. The only newly asserted arguments within the current Office Action in this regard are: 1) that the term "future path" includes a "planned path" since a planned path is performed in the future; and 2) that the prior art uses a monitoring station, which is part of a navigation system.

Although Applicants believe that claims 1-11 and 13-19 as submitted in the previous Response are novel and nonobvious and that the arguments presented are valid and do provide allowance for the stated claims, the Applicants have

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herein amended independent claims 1, 11, 16, and 19 to further clarify what is meant by the term "future path" and to further clarify how the resume speed of a vehicle is inhibited via the claimed invention.

In regards to Office Action argument 1 above, in the previous Response the Applicants stated that a planned traveling path is clearly different than a detected or predicted future path. The planned traveling path of Kageyama is predetermined by the monitoring station, whereas the future path of claims 1 and 11 are detected using a navigation system. To clarify that the future path of claims 1 and 11 are not predetermined or planned, claims 1 and 11 have been amended to replace the term "future path" with the term "non-planned future path". Since Kageyama utilizes a planned traveling path as admitted to in the Office Actions and since claims 1 and 11 expressly recite that a non-planned future path is detected, Applicants submit that Kageyama does not teach or suggest limitations A, B, D, and F shown above and as recited in claims 1 and 11.

Claims 1, 11, 16, and 19 all include limitation C above. Claims 1 and 11 have been amended to recite that the predicted future path profile is generated via an in-vehicle controller. Applicants submit that nowhere in Kageyama is a predicted future path profile generated via an in-vehicle controller. Although the monitoring station of Kageyama utilizes a planned path of vehicles, the monitoring station is at a remote location from the vehicles and the monitoring station does not perform a prediction. The planned path, as stated, is predetermined and stored for use by the monitoring station. Thus, Kageyama also fails to teach or suggest limitation C.

Claims 1, 11, 16, and 19 all include limitation E, G, and H above. In addition to showing that Kageyama fails to teach or suggest inhibiting a resume speed of a vehicle, Applicants have now amended claims 1, 11, 16, and 19 to include the limitations of inhibiting a resume speed of a vehicle in response to a command originated and generated by an in-vehicle controller. This further clarifies the differences between the claimed invention and Kageyama. The

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monitoring station controls the speed of the vehicles of Kageyama from a remote location. The claimed invention controls the acceleration of a vehicle from a controller within the vehicle. The vehicle control signals of Kageyama that originate from the monitoring station, which is clearly different than that of the claimed invention. Thus, Kageyama also fails to teach or suggest limitation E, G, and H.

Thus, once again Kageyama fails to teach or suggest any of the stated limitations A-H, especially as herein amended. Since Sielagoski also fails to teach or suggest any of limitations A-H, as admitted to in the Office Action, each and every limitation of claims 1, 11, 16, and 19 is not taught or suggested by Kageyama and Sielagoski alone or in combination.

In regards to the Office Action argument 2, although the monitoring station of Kageyama may be part of a navigation system, since Kageyama and Sielagoski fail to teach or suggest limitations A-H above, especially as amended, the *prima facie* case of obviousness has not been met for claims 1, 11, 16, and 19, see MPEP 706.02(j) and 2143. Therefore, claims 1, 11, 16, and 19 are novel, nonobvious, and are in a condition for allowance.

Applicants further submit that since each and every limitation of claims 1, 11, and 16 are not taught or suggested by Kageyama, Sielagoski, or a combination thereof and since claims 2-10, 13-15, and 17-18 depend from claims 1, 11, and 16, respectively, they are also novel, nonobvious, and are in a condition for allowance for at least the same reasons.

In addition, Applicants in the previous Response provided arguments why Kageyama is nonanalogous art and why it would not have been obvious to one of skill in the art to combine and modify the teachings of Kageyama and Sielagoski, as is necessary, to arrive at the present invention. Applicants believe these arguments to be valid and thus they are incorporated and repeated herein below along with additional arguments.

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Referring to MPEP 2141.01(a), while the Patent Office classification of references and cross-references in the official search notes are some evidence of "nonanalogy" or "analogy" respectively, the court has found "the similarities and differences in structure and function of the inventions to carry far greater weight." *In re Ellis*, 476 F.2d 1370, 1372, 177USPQ526, 527 (CCPA 1973). Kageyama would not have logically commended itself to an inventor's attention in considering the problems solved by the method and systems of claims 1, 11, 16, and 19. In developing an adaptive onboard control method for controlling the speed of an automotive vehicle for incorporation into an adaptive cruise control system, one would clearly not look to a vehicle monitor within a remotely located monitoring station. As stated the monitor of Kageyama monitors remote vehicles and directs a vehicle of concern to follow a predetermined path in response to the relative location of other monitored vehicles and a pre-planned route. The monitoring system of Kageyama would not have logically commended itself to the Applicants' attention in solving the problems associated with adaptive cruise control and for adaptively controlling a vehicle via an in-vehicle controller. Kageyama would not be reasonably pertinent to the particular problems solved by the method and systems of claims 1, 11, 16, and 19.

Also, it would not have been obvious to one of skill in the art to combine and modify the teachings of Kageyama and Sielagoski, as is necessary, to arrive at the claimed invention. Referring to MPEP 2141.01, while Patent Office classification of references and cross-references are some evidence of "nonanalogy" or "analogy" respectively, the court has found "the similarities and differences in structure and function of the invention to carry far greater weight", *In re Ellis*, 476 F.2d 1370, 1372, 177 USPQ 526, 527. Kageyama is directed to remote monitoring of vehicles not to onboard adaptive cruise control systems. Since Kageyama, as stated above, is nonanalogous art it would not have been obvious to combine the teachings of Kageyama with that of Sielogoski. In addition, since Kageyama and Sielogoski fail to teach or suggest each and every element of claims 1, 11, 16, and 19, since there is no motivation provided to

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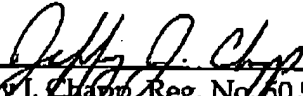
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combine and modify the stated references to arrive at the claimed invention, and since claims 2-10, 13-15, and 17-18 depend from claim 1, 11, and 16, respectfully, it would also not have been obvious to combine and modify the stated references to arrive at the claimed invention of claims 2-10, 13-15, and 17-18.

In light of the amendments and remarks, Applicants submit that all objections and rejections are now overcome. The Applicants have added no new matter to the application by these amendments. The application is now in condition for allowance and expeditious notice thereof is earnestly solicited. Should the Examiner have any questions or comments, she is respectfully requested to call the undersigned attorney.

Respectfully submitted,

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